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HOUSE BILL 816

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Rhonda S. King

AN ACT

RELATING TO TAX CREDITS; CLARIFYING PORTIONS OF THE LAND
CONSERVATION INCENTIVES ACT; AMENDING SECTIONS OF THE NMSA
1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 75-9-3 NMSA 1978 (being Laws 2003,
Chapter 331, Section 3) is amended to read:

"75-9-3. DEFINITIONS.--As used in the Land Conservation
Incentives Act:

A. "interest in real property" means a right in
real property, including access, improvements, water rights,
fee simple interest, easement, ~~and~~ land use easement, partial
interest, mineral interest, remainder interest, future or other
interest or right in real property. The interest shall comply
with the requirements of ~~the~~ Section 170(h) of the Internal

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1 Revenue Code of 1986 [~~partial interest, mineral right,~~
2 ~~remainder or future interest or other interest or right in real~~
3 ~~property~~];

4 B. "land" means real property, including [~~rights of~~
5 ~~way, easements, privileges and all other rights or interests of~~
6 ~~a land or description relating to or connected with~~] an
7 interest in real property; and

8 C. "public or private conservation agency" means a
9 governmental body or a private not-for-profit charitable
10 corporation or trust authorized to do business in [~~New Mexico~~]
11 this state that is organized and operated for natural
12 resources, land conservation or historic preservation purposes
13 and that has tax-exempt status as a public charity under the
14 [~~federal~~] Internal Revenue Code of 1986, and the power to
15 acquire, hold or maintain land or interests in land."

16 Section 2. Section 75-9-4 NMSA 1978 (being Laws 2003,
17 Chapter 331, Section 4) is amended to read:

18 "75-9-4. ADMINISTRATION.--

19 A. The Land Conservation Incentives Act shall be
20 administered by the secretary of energy, minerals and natural
21 resources in consultation with the committee established
22 pursuant to the Natural Lands Protection Act.

23 B. The secretary of energy, minerals and natural
24 resources may promulgate rules [~~as may be deemed necessary~~] to
25 certify eligible [~~projects for treatment~~] conveyances in

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1 fulfillment of the purposes of [~~this act~~] the Land Conservation
2 Incentives Act. The secretary of taxation and revenue, in
3 consultation with the secretary of energy, minerals and natural
4 resources, [~~shall~~] may promulgate rules [~~as may be deemed~~
5 ~~necessary~~] to administer the tax [~~incentives~~] credits provided
6 [~~for~~] in [~~the Land Conservation Incentives Act~~] Sections
7 7-2-18.10 and 7-2A-8.9 NMSA 1978 and shall coordinate the
8 preparation of [~~the~~] a report to the legislature showing the
9 fiscal impact on the state treasury of the credits claimed
10 pursuant to [~~that act~~] those sections."

11 Section 3. Section 75-9-5 NMSA 1978 (being Laws 2003,
12 Chapter 331, Section 5) is amended to read:

13 "75-9-5. APPLICABILITY AND LIMITATIONS.--

14 A. The tax credits provided by [~~the Land~~
15 ~~Conservation Incentives Act~~] Sections 7-2-18.10 and 7-2A-8.9
16 NMSA 1978 apply to transfers of land or interests therein in
17 taxable years beginning on or after January 1, 2004 and all
18 taxable years thereafter.

19 B. A taxpayer claiming a tax credit pursuant to
20 [~~the Land Conservation Incentives Act~~] Section 7-2-18.10 or
21 7-2A-8.9 NMSA 1978 may not claim a credit pursuant to a similar
22 law for costs related to the same project.

23 C. A tax credit that is claimed pursuant to [~~the~~
24 ~~Land Conservation Incentives Act~~] Section 7-2-18.10 or 7-2A-8.9
25 NMSA 1978 from the donation of land or an interest in land made

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1 by a pass-through tax entity, such as a trust, estate,
2 partnership, limited liability corporation or partnership,
3 limited partnership, S corporation or other fiduciary, shall be
4 used either by an entity in the event it is the taxpayer on
5 behalf of the entity or by the member, manager, partner,
6 shareholder or beneficiary, as the case may be, in proportion
7 to his interest in the entity in the event that income,
8 deductions and tax liability pass through the entity to the
9 member, manager, partner, shareholder or beneficiary. Tax
10 credits may not be claimed by both the entity and the member,
11 manager, partner, shareholder or beneficiary for the same
12 donation.

13 D. No person shall have a third-party enforcement
14 right pertaining to a conveyance made pursuant to the Land
15 Conservation Incentives Act.

16 E. No land or interest in real property may be
17 transferred to a third party without prior notice to and
18 written consent of the person claiming a tax credit pursuant to
19 Section 7-2-18.10 or 7-2A-8.9 NMSA 1978. A written agreement
20 between the person claiming the tax credit and a public or
21 private conservation agency for a conveyance pursuant to the
22 Land Conservation Incentives Act shall recite the notice and
23 consent requirements in this subsection.

24 F. A conveyance pursuant to the Land Conservation
25 Incentives Act shall be conducted by a broker or real estate

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1 salesperson licensed pursuant to Chapter 61, Article 29 NMSA
2 1978, except as otherwise provided in Section 61-29-2 NMSA
3 1978."

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